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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,493	02/27/2002	Jacquelin A. Vantroostenberghe	Male Urinary System	4926

7590

04/15/2005

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EXAMINER

BOGART, MICHAEL G

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/085,493	Applicant(s) VANTROOSTENBERGHE, JACQUELIN A.	
	Examiner Michael G. Bogart	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 now recites a primary receiver unit having a curvature **between thirty two and forty degrees**; and a secondary containment unit **extending at an angle of between 50 and 58 degrees**. Applicants assert in their response dated 30 March 2005 that support for the amendments is in the detailed specification or the figures. There is no support in the specification or any claim or amendment presented previously for specific angular measurements. Also, none of the figures previously presented have any legend or other suggestion of these specific measurements. There is no indication that the drawings are to scale. While the newly submitted formal drawings may or may not contain a single value that falls within the claimed range of angles, they do not teach a range of values. Furthermore, previously submitted figures were informal, the angles of the informal drawings are not clear from the figures themselves and there is nothing to suggest these values.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. § 102(e) as being anticipated by Miskie (US 6,679,867 B2).

For the purposes of examination, the new subject matter concerning the angular values are interpreted as being non-limiting. See previous grounds of rejection.

Miskie teaches a male urinary system comprising:

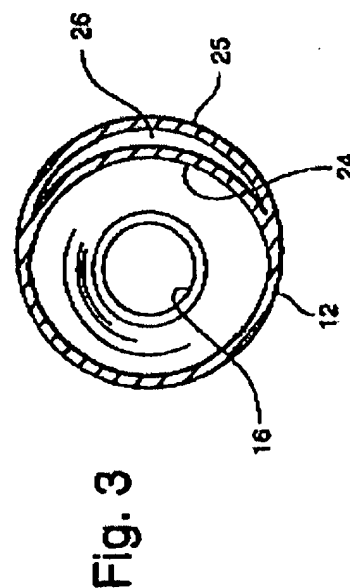
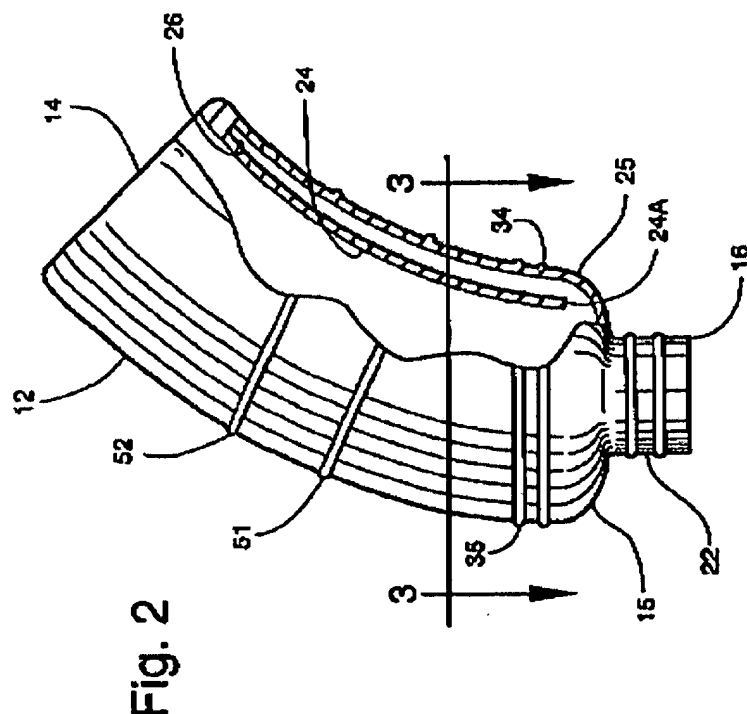
a penis/urinary collection interface unit (10), said penis/urinary collection interface unit (10) comprising a primary receiver unit (24, 12) for accommodating a male penis during urination, configured for juxtaposition to and temporary seating against the adjacent pubic area and comprised of substantially rigid material (col. 2, lines 50 and 51), and a secondary containment unit (25, 12) in which said primary receiver unit (24, 12) is at least partially nested with proximal margins (14) of said secondary containment unit (25, 12) and primary receiver (24, 12) unit being fused to said secondary containment unit to prevent fluid ingress or egress past a of fusion (26) between sad primary receiver unit and said secondary containment unit, said primary receiver unit (24, 12) being positioned relative to said secondary containment unit (25, 12) whereby a gap (26) is formed between the outer surface of said primary receiver unit (24, 12) and the inner surface of said secondary receiver unit (25, 12), said gap (26) extending at least

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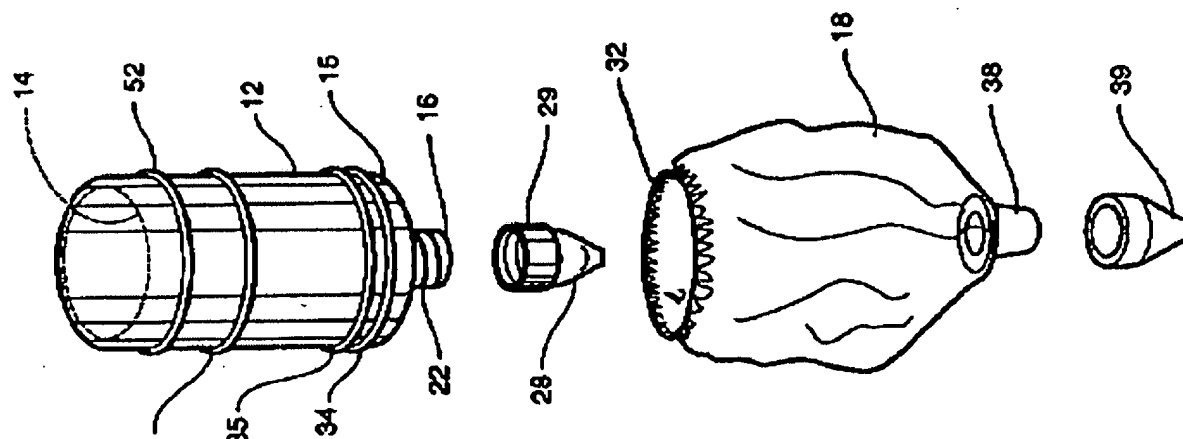
from the distal end (24A) of said primary receiver unit (24, 12) and a line of fusion (26) between said secondary containment unit (25, 12) and said primary receiver unit (24, 12), said primary receiver unit (24, 12) opening at its distal end (24A) into said secondary containment unit (25, 12) near the distal end (15) of said secondary containment unit (25, 12);

conduit means (16) attached to said distal end (15) of said secondary containment unit (25, 12) for collecting urine flowing from said distal end (24A) of said primary receiving unit (24, 12);

urine receptacle means (18) for receiving urine which flows through and from said conduit (16) (see figs. 2 and 3, below).



Regarding claim 2, Miskie teaches a snap fit lid (39) in combination with the primary receiver (24, 12)(fig. 4).



Response to Arguments

Applicant's arguments filed 30 March 2005 have been fully considered but they are not persuasive.

Regarding claim 1, the limitations concerning the angular values constitute new matter and cannot be used to define the invention over the cited art.

Allowable Subject Matter

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Larry Schwartz may be reached at phone number (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "M. Bogart", with a long horizontal stroke extending to the right.

Michael Bogart

12 April 2005

A handwritten signature in black ink, appearing to read "L. Schwartz", with a stylized, cursive script.

Larry I. Schwartz
Supervisory Patent Examiner
Group 3700